

## REMARKS

Claims 1-23 are pending and are subject to a Restriction Requirement and an Election of Species Requirement. Applicants herein amend claim 1 to remove the unnecessary recitation “consisting of about 21 to 20 amino acids” and reword the last recitation to clarify that the bromodomain comprises SEQ ID NO:3 by inserting a “wherein” clause. No issue of new matter arises as these changes are purely grammatical. Further, Applicants make one minor change to claim 21 so that step (c) is now identified as step (b), there being no step (b) previously.

### Regarding Restriction Requirement

The Examiner requires electing one of the following groups of claims for examination:

1. Group I, claims 1 and 2 directed to a nucleotide endoding a ZA loop of SEQ ID NO:3;
2. Group II, claims 3 and 4 directed to a nucleotide endoding a ZA loop of a bromodomain;
3. Group III, claims 5 and 6 directed to a ZA loop of SEQ ID NO:3;
4. Group IV, claims 7 and 8 directed to a ZA loop of a bromodomain;
5. Group V, claim 9 directed to an antibody binding a ZA loop of a bromodomain;
6. Group VI, claim 10 directed to an antibody binding a ZA loop of SEQ ID NO:3;
7. Group VII, claims 11-15 directed to methods for identifying modulators of the affinity of a bromodomain for a ligand comprising an acetyl-lysine;
8. Group VIII, claims 16-20 directed to methods of identifying modulators of the stability of a bromodomain/acetyl-lysine complex;
9. Group IX, claims 21 and 22 drawn to methods for identifying binding partners for proteins with an acetyl-lysine; and
10. Group X, claim 10 drawn to an agent inhibiting binding of a bromodomain to a protein with an acetyl-lysine.

Applicants hereby respond by electing Group I, claims 1 and 2 directed to a nucleotide encoding a ZA loop of SEQ ID NO:3 with traverse. Applicants respectfully request reconsideration of the Requirement for Restriction to allow prosecution of additional groups of

claims designated by the Examiner in the present application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under USPTO Examining Procedures, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups designated by the Examiner fail to define compositions and methods so distinct as to warrant separate examination and search. The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that concurrent examination and inclusion of all of the claims of the present application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, is in order.

#### **Regarding Election of Species Requirement**

The Examiner further requires that Applicants elect one of the following species from each group to begin prosecution:

1. For each of Groups II, IV, V and IX, one of the sequences from claims 3, 7 or 22;
2. For each of Groups VII and VIII, either i) the compound increases or decreases affinity of the bromodomain or the stability of the bromodomain/ligand complex and

- ii) the method involves the use of the atomic coordinates from Tables 1-6 or coordinate representing the three-dimensional structure of SEQ ID NO:7;
- 3. For Group X, one of the SEQ ID NOs: 4-6.

In the event one species is found patentable, the Examiner must continue examining the other species from each group until one species is found unpatentable. The Examiner indicates that claims 3, 7, 9 and 22 are generic for Groups II, IV, V, and IX, that claims 11 and 16 are generic for Groups VII and VIII, and that claim 23 is generic for Group X.

Applicants herein elect Group I, claims 1 and 2. Hence, no election of species is warranted.

### CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable consideration is respectfully requested. The Examiner is invited to contact the undersigned by telephone if any issues may be resolved in that manner.

Respectfully submitted,

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